

# SENATE BILL REPORT

## SSB 5451

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As Amended by House, April 5, 2011

**Title:** An act relating to shoreline structures in a master program adopted under the shoreline management act.

**Brief Description:** Concerning shoreline structures in a master program adopted under the shoreline management act.

**Sponsors:** Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Ranker, Ericksen, Pridemore, Harper, Carrell, Hobbs, Rockefeller, Tom, White and Shin).

**Brief History:**

**Committee Activity:** Natural Resources & Marine Waters: 2/16/11, 2/21/11 [DPS].

Passed Senate: 2/28/11, 47-0.

Passed House: 4/05/11, 77-19.

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### SENATE COMMITTEE ON NATURAL RESOURCES & MARINE WATERS

**Majority Report:** That Substitute Senate Bill No. 5451 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Stevens and Swecker.

**Staff:** Sherry McNamara (786-7402)

**Background:** The Shoreline Management Act (SMA) governs uses of state shorelines. The Department of Ecology (DOE) and local governments are authorized to adopt necessary and appropriate rules for implementing the provisions of SMA.

At the local level, the SMA regulations are developed in local shoreline master programs. All counties and cities with shorelines of the state are required to adopt master programs that regulate land use activities.

Counties and cities are also required to enforce master programs within their jurisdiction. Local master programs have certain mandatory elements as appropriate, and local governments may include other elements necessary to implement the SMA requirements. Mandatory elements include:

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- an economic development element for locating and designing water-dependent industrial projects and other commercial activities;
- a public access element to provide for public access to public areas;
- a recreational element to preserve and enhance shoreline recreational opportunities;
- a circulation element to locate transportation and other public facilities for shoreline use;
- a use element addressing the location and extent of shoreline use for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public facilities, and other uses;
- a conservation element to preserve natural resources in shoreline areas;
- a historic, cultural, scientific, and educational element to protect buildings, sites, and areas with such values; and
- an element considering statewide interests in preventing and minimizing flood damage.

A master program becomes effective when approved by DOE.

**Summary of Substitute Bill:** The act allows DOE approved new or amended master programs to include:

- principal residential structures that were legally established but do not meet current standards for setbacks, buffers, or yards; area; bulk; height; or density to be considered a conforming structure in the master program; and
- redevelopment, expansion, change within the class of occupancy, or replacement of a structure which must be consistent with the master program including no net loss of shoreline ecological functions.

The section does not:

- restrict the ability of a master program to limit redevelopment, expansion, or replacement of over-water structures or structures located in hazardous areas;
- affect application of other codes to these structures.

**Appropriation:** None.

**Fiscal Note:** Requested on February 15, 2011.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee:**

PRO: Currently, if a shoreline buffer changes, under the local master program your residential structure could be considered nonconforming. This bill gets rid of the term nonconforming use as it applies to residential structures. With local master program updates happening in communities, the overriding issue being discussed is nonconforming use and what it means to homeowners. The expressed concerns about the label of nonconforming use have been about the ability for homeowners to acquire insurance and mortgages, as well as sell their homes. This term should be extinguished. The bill removes the stigma of

nonconforming use which will alleviate the concerns for homeowners, and it will improve the ability to update the master programs.

**Persons Testifying:** PRO: Senator Ranker, prime sponsor; Tom Clingman, DOE; Bill Clarke, Washington Realtors; Chris McCabe, Association of Washington Business; April Putney, Futurewise; Bruce Wishart, People for Puget Sound.

**House Amendment(s):**

- Revises provision to allow new or amended master programs approved by DOE to authorize qualifying residential structures and appurtenant structures to be considered conforming structures;
- Defines appurtenant structures for the section to mean garages, sheds, and other legally established structures; and
- Makes technical changes.